

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRET ALAN HUMPHRIES,

Defendant.

Case No. 2:14-cr-0279-APG-VCF

**ORDER ACCEPTING REPORT AND
RECOMMENDATION AND DENYING
GOVERNMENT'S MOTION TO
RECONSIDER**

(ECF Nos. 77, 109)

Defendant Bret Alan Humphries filed a motion to suppress all statements he is alleged to have made to law enforcement officers on August 30, 2012. ECF No. 39. I accepted Magistrate Judge Ferenbach's Report and Recommendation and granted the motion to suppress. ECF No. 76. The Government moved to reconsider my order, alleging that a new witness (S.M.) had come forward to say that Mr. Humphries lied during Magistrate Judge Ferenbach's hearing on the suppression motion. ECF No. 77. I referred the matter back to Magistrate Judge Ferenbach for a hearing limited to the issue of statements allegedly made by Mr. Humphries to S.M. to the effect that Mr. Humphries lied at the prior hearing. ECF No. 86.

Magistrate Judge Ferenbach conducted the evidentiary hearing and entertained post-hearing briefs. He ultimately concluded that S.M. is not a credible witness, and recommended that even considering S.M.'s testimony the motion to suppress should still be granted. ECF No. 109. The Government filed an Objection to the Report and Recommendation (ECF No. 117), and Mr. Humphries filed a Response (ECF No. 120). Pursuant to Local Rule IB 3-2(b), I have conducted a *de novo* review of Magistrate Judge Ferenbach's Report and Recommendation. I have reviewed the transcript from Magistrate Judge Ferenbach's June 30, 2016 evidentiary hearing, listened to the audio recording of that hearing, and considered the parties' respective briefs.

IT IS HEREBY ORDERED that Magistrate Judge Ferenbach's Report and Recommendation (**ECF No. 109**) is **accepted**. Based upon my own evaluation of the evidence

1 presented, I find that the Government has not met its burden of proving that Mr. Humphries lied
2 during Magistrate Judge Ferenbach's earlier hearing on the suppression motion. Thus, the
3 Government's motion for reconsideration (**ECF No. 77**) is **denied**.

4 Dated: February 9, 2017.



5 ANDREW P. GORDON
6 UNITED STATES DISTRICT JUDGE
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